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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,885	04/12/2001	Naoki Tsukiji	199894US-8	1390

22850 7590 02/11/2003

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1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

MONDT, JOHANNES P

ART UNIT	PAPER NUMBER
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2826

DATE MAILED: 02/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/832,885

Applicant(s)

TSUKIJI ET AL.

Examiner

Johannes P Mondt

Art Unit

2826

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-82 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-35, drawn to a semiconductor light-emitting device, classified in class 257, subclass 79+.
  - II. Claims 36-77, drawn to a semiconductor laser device, a semiconductor laser module, and a method of using a semiconductor laser device, classified in class 372, subclasses 27 and 43+.
  - III. Claim 78, drawn to an optical fiber amplifier comprising a semiconductor laser device, classified in class 359, subclass 341.1.
  - IV. Claim 79, drawn to a wavelength division multiplexing system, classified in class 359, subclass 115.
  - V. Claims 80-82, drawn to a Raman amplifier system, classified in class 359, subclass 124.

The inventions are distinct, each from the other because of the following reasons:

Because the spectrum is in no way limited to pertain to that of a coherent source, claims 1-35 apply equally to non-lasing light-emitting devices, while claims 36-69 are specific to laser semiconductor devices and their use. Light-emitting devices emitting non-coherent light (LEDs) are used for cost-effective lighting purposes, for which no lasing action is required.

2. Inventions III-V and II are related as combination and subcombination.

Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because (with regard to Invention III) optical fiber amplifiers can amplify non-coherent light just as well as coherent light, (with regard to Invention IV) wavelength division multiplexing systems find applications in a wide variety of spectral ranges, including the non-optical GHz range, as witnessed by present applications of the technology to cell phones, and (with regard to Invention V) Raman amplifier systems find applications also in the non-optical range of frequencies. The subcombination has separate utility such as in the technology of laser lithography.

In the event Applicant elects the Invention of Group II the device this application contains claims directed to the following patentably distinct species of the claimed invention: Embodiment 1 (Figures 1-4), Embodiment 2 (Figures 5-5A), Embodiment 3 (Figure 6), Embodiment 4 (Figure 7), and Embodiment 5 (Figure 8).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim appears to be generic.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Johannes P Mondt whose telephone number is 703-306-0531. The examiner can normally be reached on 8:00 - 18:00.

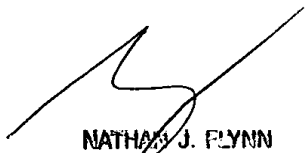
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J Flynn can be reached on 703-308-6601. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7722 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

JPM  
February 10, 2003

Application/Control Number: 09/832,885  
Art Unit: 2826

Page 5



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SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800